

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

HEATH B. CLARK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2:06-CV-843-MHT
	)	
MONTGOMERY CITY POLICE	)	
DEPARTMENT, et al.,	)	

**O R D E R**

A review of the complaint filed in this case reveals that the plaintiff lists “Arresting Officers (John Does)” and “Auto Theft Detectives (John Does)” as defendants. The Federal Rules of Civil Procedure do not provide for fictitious party practice as it is incompatible with federal procedure. *See* Rule 10(a) (“[i]n the complaint, the title of the action shall include the names of all the parties ...”); *New v. Sports and Recreation, Inc.*, 114 F.3d 1092, 1094 at n.1 (11th Cir. 1997) (fictitious party practice not permitted in federal court and plaintiff’s failure to name parties required that court strike parties.); *Watson v. Unipress*, 733 F.2d 1386, 1388 (10th Cir. 1984)(plaintiff did not amend the complaint with identities of unknown defendants, and, therefore, no one directly involved in incident was named as defendant.). Accordingly, it is ORDERED that on or before October 10, 2006 the plaintiff shall file with this court an amendment to his complaint which:

1. Informs the court of the true names of the “Arresting Officers (John Does)” and “Auto Theft Detectives (John Does)” who allegedly violated his constitutional rights.
2. Specifically describes how each of these individuals violated his constitutional

rights.

The plaintiff is cautioned that if he fails to properly respond to this order service on the fictitious parties will not be effectuated, these persons will not be considered parties to this cause of action, and this case will proceed only against those defendants properly named in the complaint and on whom service is perfected.

Done this 25<sup>th</sup> day of September, 2006.

/s/Charles S. Coody  
CHARLES S. COODY  
CHIEF UNITED STATES MAGISTRATE JUDGE